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Indiana Affordable Housing and Community Development Fund Application Process, Underwriting Guidelines, and Compliance Requirements

REVISED 2013

The Indiana Affordable Housing and Community Development Fund (“Development Fund”) was established in 1989 to provide financing options for the creation of safe, decent, and affordable housing and for economic development projects in Indiana communities. Development Fund regulations may be found in Indiana Code 5-20-4.

Developments also involving federal funding (e.g. HOME or CDBG), tax-exempt bonds, or Low-Income Housing Tax Credits must comply with the requirements of those programs

PART 1: APPLICATION PROCESS, ELIGIBLE ACTIVITIES, & ELIGIBLE COSTS

1.1 How to Apply

Development Fund awards are approved through IHCD’s Development Fund Application or in conjunction with Low-Income Housing Tax Credit applications through the Qualified Allocation Plan (QAP), with HOME applications through the HOME funding round, or with CDBG applications through the CDBG funding round.

Development Fund requests that are not in conjunction with another funding application are accepted year-round. The development must be discussed with IHCD’s Underwriting and Closing Manager prior to application submission. Applications must be submitted through the Development Fund e-mail/mailbox at developmentfundapplication@ihcda.in.gov. After review of the application, IHCD staff will invite the applicant in to speak about the proposed development and to answer staff questions. IHCD staff reserves the right to require changes to the proposal as a condition of recommending for funding. If the project meets IHCD’s requirements and is recommended for funding, IHCD staff will then present to IHCD’s Board of Directors for final approval.

Development Fund requests in conjunction with other funding sources must be submitted in accordance with the application procedures and deadlines for those programs.

1.2 Eligible Applicants

Eligible applicants include nonprofit corporations, for profit developers, and local units of government. IHCD must allocate at least fifty-percent (50%) of the fund to recognized nonprofit corporations under Section 501(c)(3) of the U.S. Internal Revenue Code.

Applicants with current Development Fund awards are eligible to apply for additional funding. All outstanding awards must be current (if loans), in compliance with all program requirements, and otherwise in good standing in order for an applicant to be considered for additional awards. However, no individual project sponsor or its affiliates may hold more than 20% of the Development Fund’s total portfolio at any one time.

Individuals or organizations currently on IHCD’s suspension or debarment list are not eligible to apply for Development Fund awards.

1.3 Eligible Beneficiaries

Residential Developments: The Development Fund can be used to finance assisted units for occupancy by households earning up to eight-percent (80%) of the area median income (AMI), as

published annually by HUD. Income limits are maintained on [IHCD's Compliance Manual Webpage](#).

Indiana Code governing the Development Fund requires at least fifty-percent (50%) of the dollars allocated to be used to serve "very low-income households" (households earning less than 50% of the area median income). Therefore, at least fifty-percent (50%) of the project beneficiaries must be households at or below fifty-percent (50%) AMI, and the remaining households must be at or below eighty-percent (80%) AMI. However, if the award is a grant, one hundred percent (100%) of the beneficiaries must be at or below fifty-percent (50%) AMI.

Development Fund awards may target special needs populations such as the elderly, persons with disabilities, and homeless individuals (the beneficiaries must still be low-income).

Non-Residential Developments: Applications for funding of non-residential community economic development will be evaluated to determine financial impact on the community and consistency with IHCD's Strategic Priorities. See Eligible Non-Residential Activities below.

1.4 Activity Location

The proposed activity must be located within the State of Indiana.

1.5 Eligible Residential Activities

Eligible activities include, but are not limited to, acquisition, new construction, and/or rehabilitation of homes for sale, permanent rental units, permanent supportive housing, or other programs considered appropriate to meet the affordable housing and community development needs of low-income families and individuals at the discretion of IHCD, EXCEPT FOR the specifically ineligible activities listed in Part 1.6 below.

1.6 Ineligible Residential Activities

- Rehabilitation of mobile homes;
- Acquisition only activities;
- Acquisition, rehabilitation, or new construction of units within the boundaries of the 100-year floodplain;
- Owner-Occupied Rehabilitation (OOR developments must request funding through IHCD's CDBG / CDBG-D program); and
- Refinances.

1.7 Eligible Non-Residential Activities

Development Fund may be used for non-residential activities that contribute to the economic development of communities, but only in the following circumstances.

- Non-residential activities in communities designated under either the Stellar Communities or Communities for a Lifetime programs, or other special IHCD initiatives at IHCD's discretion. Eligible activities include, but are not limited to, facade improvements (typically involving historic buildings); acquisition, construction or rehabilitation of commercial properties and related structures; brownfield reuse; planning grants; etc.
- Commercial space as part of a mixed-use design for Section 108, Low-Income Housing Tax Credit, or New Market Tax Credit developments. The developer must first make a funding request to the Community Investment Fund of Indiana (CIFI) and provide evidence of such request and the outcome.

1.8 Eligible Activity Costs

Soft costs and professional fees are eligible except for those fees specifically listed as ineligible under Part 1.9 below. Examples of eligible soft costs include, but are not limited to, contingency funds, relocation, architectural fees, engineering fees, consulting fees, and environmental assessment. Questions about eligible vs. ineligible soft costs under the Development Fund program can be directed to the IHCD Underwriting and Closing Manager.

Acquisition – Limited to the purchase price (at or below appraised value) and related costs associated with the acquisition of real property. The recipient of a Development Fund award is required to use a title company when purchasing assisted properties.

New Construction

- Hard costs associated with new construction activities.
- Utility connections including off-site connections from the property line to the adjacent street.
- Related infrastructure costs - improvements to the development site that are in keeping with improvements of surrounding, standard housing or community development activities. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- For multi-family rental housing, costs to construct a permanent on-site management office, the apartment of a resident manager, laundry facilities, community facilities, or other common space which is located within the same development as the housing and which is for the use of the tenants and their guests.
- Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.

Rehabilitation

- Hard costs associated with rehabilitation activities.
- Lead-based paint interim controls and abatement costs.
- Mold remediation.
- Utility connections including off-site connections from the property line to the adjacent street.
- Related infrastructure costs - improvements to the development site that are in keeping with improvements of surrounding, standard developments. Site improvements may include on-site roads and water and sewer lines necessary to the development.
- For multi-family rental housing, costs to rehabilitate a permanent on-site management office, the apartment of a resident manager, laundry facilities, community facilities, or other common space which is located within the same development as the housing and which is for the use of the tenants and their guests.
- Stoves, refrigerators, built-in dishwashers, garbage disposals, and permanently installed individual unit air conditioners.

Demolition – Costs associated with the demolition and clearance of existing structures.

Non-Residential – Costs not included above will be considered on a case-by-case basis and must relate directly to the development as approved.

1.9 Ineligible Activity Costs

The following costs are ineligible for reimbursement from Development Fund awards:

- Administration
- Replacement Reserves
- Operating Reserves

- Developer's Fee
- Costs associated with any IHCDCA application preparation
- Purchase or installation of luxury items, such as swimming pools or hot tubs.
- Purchase or installation of equipment, furnishings, tools, or other personal property that is not an integral structural feature, such as window air conditioner units or washers and dryers.
- Tenant-based rental assistance.
- Project-based rental assistance, rental subsidy, or operating subsidy.
- Mortgage default/delinquency correction or avoidance.
- Loan guarantys
- Annual contributions for operation of public housing.

1.10 Match Requirements

Applicants for Development Fund must be able to document a local match in an amount of at least ten-percent (10%). Acceptable match sources include in-kind donations, donated land, building materials, loans, cash grants, or any combination of both in-kind and cash. Other sources of match may also qualify, except for funds administered by IHCDCA.

Applications for developments located in Marion County must include evidence that funding has been requested from the Indianapolis Housing Trust Fund. Evidence must include the decision from the Indianapolis Housing Trust Fund as to whether or not the request was approved or denied.

PART 2: LOAN TERMS AND UNDERWRITING PROVISIONS

2.1 Development Fund Activity Provisions

The Development Fund may provide grants or loans up to \$500,000 per development.

Development Fund grants will only be made in special circumstances and only for developments on which non-profit organizations are the applicant and owner and in which the nonprofit does not have the capacity for debt as supported by IHCDCA's underwriting. Grants may not be loaned to a third-party recipient by the grantee. If Development Fund is awarded as a grant, the following requirements will apply:

- The project must be innovative in nature. The project application must demonstrate unique features and contribution to an IHCDCA Strategic Priority; and
- All units must be restricted at 50% area median income rent and income limits; and
- At least 40% of the total development cost must come from non-IHCDCA sources.

The Development Fund may be used for the following types of loans. Homebuyer projects are not eligible for permanent or bridge financing. See "Exhibit A: Summary of Loan Products and Terms" for more details on loan provisions:

- Pre-development: to pay project pre-development expenses
- Acquisition: to pay for purchase and closing costs for property acquisition
- Construction: to pay for hard and soft costs of new construction and rehab projects
- Permanent: to provide permanent financing to the project.

- Bridge: financing to bridge the timing gap between project or program costs and cash from committed sources not yet available (equity). Bridge loans are only available for tax credit developments including developments receiving Low-Income Housing Tax Credits (Section 42), New Market Tax Credits, and/or Historic Tax Credits.

2.2 Loan Terms

Applicants receiving Development Fund loans must demonstrate the ability to repay the loan. If the loan will not take first position behind permanent financing, the developer must receive IHCD A approval.

The base interest rate for loans is three-percent (3%). The interest rate offered by IHCD A will be determined during underwriting. **Underwriting will start at 3% and make a final determination based on financial capacity. The final interest rate will not be less than 3%, but may exceed 3% based on capacity.**

See “Exhibit A: Summary of Loan Products and Terms” for more details on loan provisions including terms, application fees, collateral, etc.

2.3 Financing Requirements

Loans must be closed under the supervision of a title agent or attorney. Title insurance is required.

Award recipients will be required to provide proof of adequate builder’s risk insurance, property insurance, and/or contractor liability insurance during construction. Following construction, proof of adequate property insurance is required for all assisted properties throughout the affordability period.

2.4 Underwriting Guidelines:

Rental:

The following are underwriting guidelines for multi-family rental developments. However, all applicants should be aware that these are averages and the numbers submitted should reflect the nature and true cost of the development proposed. IHCD A will consider any underwriting outside of these guidelines if supporting documentation is provided.

- 1) Total Operating Expenses - IHCD A will consider the reasonableness of operating expenses for each Development based on information submitted by the Applicant. Applicant must provide documentation of estimated property taxes and insurance for the proposed development (i.e. a statement of how the Applicant determined the estimated taxes and insurance for the development. All developments must be able to underwrite with a minimum operating expense of \$2,500 per unit per year.
- 2) Management Fee— 5-7% of “effective gross income” (gross income for all units less vacancy rate).
- 3) Vacancy Rate – 6% - 8%
- 4) Expense Growth – 3%, with at least a 1% spread between expense growth and rental income growth

- 5) Rental Income Growth – 0-2%/year
- 6) Operating Reserves – four (4) to six (6) months (operating expenses, excluding replacement reserves, plus debt service) or \$1,500 per unit (whichever is greater)
- 7) Replacement Reserve- Required for all developments and must be included in the operating budget. Contributions must be made to the reserve account, starting at or before the conversion date of the construction loan to permanent loan and must be funded for the term of the loan. The following minimum contributions must be used:
 - a) Rehabilitation: \$350 per unit per year
 - b) New Construction: \$250 per unit per year
 - c) Single Family Units: \$420 per unit per year
 - d) Historic Rehabilitation: \$420 per unit per year

Replacement reserve funds must only be used for capital improvements (substantial improvements to the real estate such as re-roofing, structural repairs, or major projects to replace or upgrade existing furnishings, but not including replacement of individual appliances or minor repairs) and must **not** be used for general maintenance expenses. Less restrictive provisions required by lenders must be approved by IHCD.

Stabilized DCR: 1.15-1.35. For developments structured with no hard debt the minimum cash flow before deferred developer fee must be at least \$250 per unit annually.

Stabilization usually occurs in Year 2. The debt coverage ratio projection for a development should not go below 1.1 during the complete fifteen (15) year affordability period to be considered financially feasible. If the underwriting is outside these guidelines, then the Applicant must provide a written detailed explanation with third-party documentation supporting the explanation (approval of underwriting from other financing institutions/funding sources will not constitute acceptable supporting documentation). Tax abatement is an example of what may cause the debt coverage ratio to be higher than these guidelines. Evidence of approved tax abatement must be provided in the application.

Developments without hard debt are allowed, but will be subject to additional scrutiny from IHCD. Developments submitted with no debt will not have a debt coverage ratio, but will be required to have a cash flow without having an undue profit. This will be determined by a ratio of Effective Gross Income to Total Annual Expenses (including reserve for replacement). A ratio of 1.15 shall be the minimum required to be considered feasible by IHCD in Years 1-15.

Single Family:

These guidelines cover the guidelines for construction and rehabilitation of detached single-family homes and construction of a condominium project or attached townhomes.

Type: New construction or rehabilitation of single-family residences.

Term:	Up to twelve (12) months for pre-sold detached residences and up to twenty-four (24) months for attached townhomes.
Interest Rate:	Underwriting will start at 3% and make a final determination based on financial capacity. The final interest rate will not be less than 3% but may exceed 3% based on capacity.
Security:	First lien mortgage on real estate, collateral assignment of rents, leases, and profits, UCC filing on furniture, fixtures, and equipment, and guarantee from the borrower.
Loan-to-value:	Maximum eighty-percent (80%) of improved appraised value per home.
Sources of Financing:	The total project costs must equal the project's total sources of financing, inclusive of equity, with all sources identified with the name of the funding source and the dollar amount.
Pre-Sales:	Pre-sales will be required.

Additional Required Documentation (Single Family):

1. Site Plan, if applicable;
2. Detailed Sources and Uses of Funds to show that sources equal uses and the identification of each source
3. Monthly development proforma.
4. Experience of development team and operations management.
5. Financial statements and/or financial summary of the borrower(s) and, when applicable, guarantor(s).

Non-Residential:

Type:	Construction, rehabilitation, or mini-perm loans.
Term:	Up to ten (10) years.
Amortization:	Up to twenty-five (25) years depending on property type and age, with a twenty (20) year maximum preferred.
Interest Rate:	Underwriting will start at 3% and make a final determination based on financial capacity. The final interest rate will not be less than 3% but may exceed 3% based on capacity.
Security:	First lien mortgage, collateral assignment of rents and leases, UCC filing on furniture, fixtures, and equipment, and guarantee from the borrower.
Operating Expense:	TBD
Operating Reserves:	TBD
Loan-to-value:	Maximum eighty-percent (80%).
Sources of Financing:	The total project costs must equal the project's total sources of financing, inclusive of equity, with all sources identified with the name of the funding source and the dollar amount.
Debt Service Coverage:	A <u>minimum</u> of 1.10 - 1.20

Additional Required Documentation (Non-Residential):

1. Site Plan, if applicable;
2. Detailed Sources and Uses of Funds to show that sources equal uses and the identification of each source;
3. Stabilized proforma showing detailed rental income, expense stops, operating expense reimbursements, operating expenses, and market vacancy.
4. Sensitivity analysis with respect to occupancy of the local tenants, local tenant rental rates, and interest rates.
5. Experience of development team and operations management.
6. Financial statements and/or financial summary of the borrower(s) and, when applicable, guarantor(s).
7. Evidence of lessor/owner financial capacity as well as evidence of leasing commitments for one hundred percent (100%) of the space.

PART 3: AFFORDABILITY PERIODS AND COMPLIANCE REQUIREMENTS

3.1 Regulatory Requirements and Building Code

All regulatory requirements of [I.C. 5-20-4](#) must be met. Additional regulatory requirements may apply depending on other sources of funding committed to the project.

Development Fund-assisted units must meet the stricter of the local building codes or the Indiana State Building Code.

3.2 Historic Review

Any project applying for Development Fund will be subject to historic review. Project address, location maps, and photographs from all elevations must be submitted with each application.

The recipient is responsible for completing the Section 106 Historic Review Process BEFORE:

1. Executing contracts or entering into any other commitments of Development Fund.
2. Initiating demolition, rehabilitation, or construction activities. This includes all site preparations and ground disturbing activities: infrastructure, grading, etc.

If a project is deemed to be historic and is proposing funding in whole or in part by the Development Fund, then Indiana Code IC14-21-1-18 is triggered, which requires that any historic site or historic structure owned by the State or any historic site or historic structure listed on the State or national register may not be altered, demolished, or removed by a project funded, in whole or in part, by the State unless the review board has granted a certificate of approval.

Process for projects funded only by State Funds: Consultation occurs between the State Historic Preservation Office, the funding agency, and the applicant to determine if listed properties will be altered, demolished, or removed by the proposed development. The applicant will need to apply for a Certificate of Approval from the State Historic Review Board.

Process for projects funded by State and Federal funds: Consultation occurs between the State Historic Preservation Office, the funding agency, and the applicant to understand the impact of developments on historic resources. If it is determined that any sites or structures listed on the State or national registers will be adversely impacted and the development will require a

Certificate of Approval from the State Historic Review Board, the application for a Certificate of Approval may not be submitted until the Federal review process is completed.

*The State Historic Review Board meets quarterly (January, April, July and October) to hear and approve Certificates of Approval. All applications for a Certificate of Approval must be received by the SHPO no later than forty (40) days prior to the review board meeting. [Review board dates can be found at: <http://www.in.gov/dnr/historic/2773.htm>]

Please refer to the Environmental Review Process Handbook for more details (<http://www.in.gov/myihcda/2401.htm>) (see the HOME and CDBG Program Manual, Chapter 11-ER Process).

3.3 Affordability Period / Lien and Restrictive Covenants for Residential Developments

Rental developments will be subject to a Lien and Restrictive Covenant Agreement (LRCA) that must be executed against every residential property constructed, rehabilitated, or acquired, in whole or in part, with Development Fund funds. The lien will assign a minimum fifteen (15) year affordability period for all rental housing developments. If the award is made in conjunction with Low-Income Housing Tax Credits, the development will be subject to the applicable tax credit compliance and extended use period. If the award is made in conjunction with HOME or CDBG funding, the development will be subject to the applicable program affordability period.

Upon occurrence of any of the following events during the affordability period, the entire sum secured by the lien, without interest, shall be due and payable by developer and/or owner upon demand. Repayment may be demanded upon: (1) transfer or conveyance of the real estate by deed, land contract, lease, or otherwise, during the affordability period; (2) commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within the affordability period; or (3) determination that units are not being used as a residence by a qualifying tenant or not leased according to the program affordability requirements. The award recipient will be responsible for repaying IHCD.

At the end of the affordability period, if the borrower/recipient has met all conditions, the lien will be released.

Homebuyer developments are not subject to an affordability period. However, beneficiaries of homebuyer developments must meet the income eligibility requirements prior to purchase.

3.4 Lien and Restrictive Covenants for Non-residential Developments

Non-residential developments will be subject to a Lien and Restrictive Covenant Agreement that must be executed against every property constructed, rehabilitated, or acquired, in whole or in part, with Development Fund. The lien will restrict the land use for ten (10) years.

3.5 Income and Rent Restrictions for Residential Developments

All Development Fund-assisted units in residential developments must be income and rent restricted. If the award is made in conjunction with Low-Income Housing Tax Credits, then the tax credit program income and rent limits will apply. If the award is made in conjunction with HOME or CDBG funding or is Development Fund only, then the HOME program income and rent limits will apply.

For purposes of income eligibility, household income must be calculated and verified at the time of initial move-in using the methodology as described in 24 CFR Part 5 and in Chapter 5 of HUD Handbook 4350.3. Eligibility is based on gross income, not net or adjusted income. This same

income verification procedure is used for both the tax credit and HOME programs. For more information on income verification procedures, please refer to the appropriate chapters of either the tax credit or federal programs compliance manual.

For purposes of rent limits, gross rent must be below the applicable rent limit. Gross rent for Development Fund is defined as the sum of tenant-paid rent portion + utility allowance + non-optional fees. For more information on utility allowances and fees, please refer to the appropriate chapters of either the tax credit or federal programs compliance manual.

3.6 Ongoing Compliance for Residential Developments

All Development Fund assisted properties must submit an Annual Owner Certification of Compliance to IHCD for each year of the affordability period. The recipient must begin reporting tenant events in IHCD's online management system with the first tenant move-in. The report covers the period January 1 - December 31 and is due to IHCD offices by the close of business January 31st of the next calendar year. For more information about Owner Certifications, please refer to the appropriate chapters of either the tax credit or federal programs compliance manual.

All Development Fund assisted properties will be subject to IHCD tenant file audits and physical inspections. The audit and inspection will take place at least once every three (3) years. When Development Fund is combined with other funding sources, the audit/inspection cycle will occur based on the cycle and frequency prescribed by that program.

PART 4: WAIVERS AND MODIFICATIONS

4.1 Requesting Waivers

IHCD, in its sole discretion, may consider a waiver request from any Applicant/Developer in regards to any program requirement. The Applicant must submit the waiver request along with the original application. The waiver request must include 1) the details of the specific requirement for which the waiver is being requested, 2) a detailed description as to why the development cannot meet the requirement, 3) any additional information the Applicant would like IHCD to consider with the request, and 4) payment of the waiver request fee in the amount of \$500 for each requirement requested to be waived. IHCD will provide a written response approving or denying the request. The waiver request fee will be retained by IHCD regardless of whether the waiver is granted.

4.2 Requesting Modifications

IHCD will impose a \$500 fee for a request for changes to the characteristics of the development, such as unit types, distribution, or targeting (e.g. set-asides). This fee will apply to any modification requested after approval of funding.

In addition, IHCD will impose a \$1500 fee to modify any legal documents such as the recorded Lien and Restrictive Covenant.

For example, if an owner requests a modification to change the number of 30% set-aside units at the property during the affordability period, the owner would submit a \$500 modification request fee and then if approved an additional \$1500 fee to have IHCD modify the recorded Lien and Restrictive Covenant on the property to reflect the new unit mix. The total modification cost is \$2000. If the modification does not require amending the legal documents, then the \$1500 fee would not apply.

Approval of modification requests is at the sole discretion of IHCD. IHCD must evaluate each request to see how the change would have affected original funding and underwriting of the development, as well as to ensure that the proposed change will not cause noncompliance.